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Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 28th August, 1985:—

BILL No. 166 OF 1985

A Bill to provide for the appointment of a Lokpal to inquire into allegations of corruption against Union Ministers and for matters connected therewith.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1985.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title,
extent
and
com-
mence-
ment.
Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “competent authority” means the Prime Minister;
- (b) “complaint” means a complaint alleging that a public functionary has, while holding any of the offices mentioned in clause (e), committed any offence punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947;
- (c) “Lokpal” means a person appointed under section 3 as the Lokpal;
- (d) “prescribed” means prescribed by rules made under this Act;

(e) "public functionary" means a person who holds or has held the office of a Minister, Minister of State, Deputy Minister or Parliamentary Secretary, of the Union.

Appoint-
ment of
Lokpal.

3. (1) For the purpose of making inquiries in respect of complaints under this Act, the President shall, after consultation with the Chief Justice of India, appoint, by warrant under his seal, a person who is, or has been, or is qualified to be, a Judge of the Supreme Court as the Lokpal.

(2) Every person appointed as the Lokpal shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

Lokpal
to be
in-
eligible
to hold
other
offices.

4. The Lokpal shall not be a Member of Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Lokpal), or be connected with any political party, or carry on any business, or practise any profession, and accordingly, before he enters upon his office, a person appointed as the Lokpal shall,—

(a) if he is a Member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

Term
of office
and
other
con-
ditions of
service
of
Lokpal.

5. (1) A person appointed as the Lokpal shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the Lokpal may, by writing under his hand addressed to the President, resign his office;

(b) the Lokpal may be removed from his office in the manner provided in section 6.

(2) On ceasing to hold office, the Lokpal shall be ineligible for further employment to any office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and pension payable to, and all other conditions of service of, the Lokpal shall be the same as those of the Chief Justice of India:

Provided that such salary shall be in addition to any pension to which the Lokpal may be entitled in respect of any previous service under the Government of India or under the Government of a State and no deduction shall be made from such salary on the ground of his having received any retirement gratuity, or on the ground that he received the commuted value of a portion of the pension, in respect of his previous service:

Provided further that the allowances and pension payable to, and other conditions of service of, the Lokpal shall not be varied to his disadvantage after his appointment.

6. The Lokpal shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or, as the case may be, by such other Judge of the Supreme Court as the Chief Justice of India may nominate in this behalf, in which the Lokpal had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Removal
of
Lokpal.

7. (1) The Lokpal shall, for the purpose of assisting him in the discharge of his functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with the Lokpal.

Staff of
Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any classes of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government; or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as the President may determine, from time to time, in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

8. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint.

Jurisdic-
tion of
Lokpal.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as he considers it necessary so to do for the purpose of his inquiry into any such allegation:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952, except on the recommendation, or with the concurrence, of the Lokpal.

Matters
not
subject
to juris-
diction of
Lokpal.

9. (1) The Lokpal shall not inquire into any matter concerning any person if he has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on his recommendation or with his prior concurrence.

60 of 1952.

(3) The Lokpal shall not inquire into any complaint if the complaint is made after the expiry of five years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Com-
plaints.

10. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal.

Explanation.—For the purpose of this sub-section, public servant means—

(a) any person who is a member of a Defence service or of a civil service of the Union or a State or of an all-India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956.

1 of 1956.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence alleged and shall be accompanied by an affidavit in support of such particulars and a certificate in the prescribed form in respect of the deposit under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of one thousand rupees to be available for disposal under section 26:

Provided that the Lokpal may, for sufficient cause to be recorded in writing, exempt a complainant from the requirement under this sub-section.

(4) Notwithstanding anything contained in the foregoing sub-sections, any letter written to the Lokpal or, as the case may be, the appropriate authority by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in charge of any jail or other place of custody or of any asylum or other place for insane

persons to forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Explanation.—"Appropriate authority" means any of the authorities which the Lokpal may, by general or special order, in writing, determine to be appropriate authorities for the purposes of this section.

11. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as he deems appropriate,—

Preliminary scrutiny of complaints by Lokpal.

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 9; or

(b) that he cannot make an inquiry in respect of the complaint by reason of the provisions of sub-section (1) or sub-section (2) of section 9 or any other provision of this Act; or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint,

the Lokpal shall dismiss the complaint after recording his reasons therefor and communicate the same to the complainant and to the competent authority.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular the Lokpal may, if he deems it necessary so to do, call for the comments of the public functionary concerned.

12. (1) If, after the consideration and verification under section 11 in respect of a complaint, the Lokpal proposes to conduct any inquiry, he—

Procedure in respect of inquiries.

(a) shall forthwith forward a copy of the complaint to the competent authority;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as he deems fit;

(c) shall, at such time as he considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall be conducted *in camera*.

(3) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.

Power of Lokpal to issue, in certain circumstances, directions for deferring or suspending investigation into an offence.

13. (1) Where the Lokpal is satisfied—

(a) that investigation by any police officer under the Code of Criminal Procedure, 1973, into any offence in respect of which a complaint is made or into any matters connected therewith may prejudicially affect the conduct of inquiry under this Act with respect to such complaint; and

2 of 1974.

(b) that having regard to all the circumstances of the case it would be proper to defer such investigation pending the completion of such inquiry;

he may, by order in writing and for reasons to be recorded therein, direct that till the completion of such inquiry or for such shorter period as may be specified in the order, any such investigation shall be deferred or, as the case may be, shall be suspended:

Provided that no such direction shall apply with respect to any investigation required to be made in pursuance of an order of any court.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in computing, for the purposes of Chapter XXXVI of that Code, the period of limitation for taking cognizance of any offence, being an offence the investigation in respect of which has been deferred or suspended by reason of an order under sub-section (1), the date on which such order was made, the period during which the investigation remained deferred or, as the case may be, suspended by reason of the order and the date on which the order ceased to have effect, shall be excluded.

2 of 1974.

Evidence.

14. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 11), the Lokpal—

(a) may require any public servant or any other person, who, in his opinion is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

45 of 1860.

(3) Subject to the provisions of sub-section (4),—

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever shall apply to the disclosure of information for the purposes of any inquiry (including the verification under section 11) under this Act; and

(b) the Government or any public servant shall not be entitled, in relation to any such verification or inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document—

(a) as might prejudice the security, or defence, or international relations, of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detention of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union Government or of any Committee of such Cabinet,

and for the purpose of this sub-section, a certificate issued by a Secretary to the Government of India certifying that any information, answer, or portion of a document, is of the nature specified in clause (a) or clause (b) shall be binding and conclusive:

Provided that the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued under this sub-section to the effect that it is of the nature specified in clause (a) to be disclosed to him in private for scrutiny and if on such scrutiny the Lokpal is satisfied that such certificate ought not to have been issued, he shall declare the certificate to be of no effect.

Explanation.—For the purposes of this section “public servant” shall have the same meaning as in section 21 of the Indian Penal Code.

45 of 1860.

15. (1) If the Lokpal has reason to believe that any documents which, in his opinion, will be useful for, or relevant to, any inquiry under this Act, are secreted in any place, he may authorise any officer subordinate to him, or any officer of an investigating agency referred to in sub-section (2) of section 7, to search for and to seize such documents.

Search
and sei-
zure.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in his custody, he may so retain the said document till the completion of such inquiry:

Provided that where such document is seized before the commencement of such inquiry, the Lokpal shall return the document before the expiration of a period of one year from the date on which it is seized unless such inquiry has been commenced before such expiration.

Explanation.—For the purposes of this sub-section, an inquiry in respect of a complaint—

(a) shall be deemed to have commenced on the date on which the Lokpal forwards a copy of the complaint to the competent authority under clause (a) of sub-section (1) of section 12;

(b) shall be deemed to have been completed on the date on which the Lokpal closes the case under clause (a) of sub-section (1) of section 16 or where the Lokpal makes a report to the competent authority under clause (b) of that sub-section, on the expiry of the period mentioned in sub-section (3) of that section.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if, for the word "Magistrate", wherever it occurs, the words "Lokpal or any officer authorised by him" were substituted. 2 of 1974.

Reports.

16. (1) If, after inquiry in respect of a complaint, the Lokpal is satisfied—

(a) that no allegation made in the complaint has been substantiated either wholly or partly, he shall close the case and intimate the complainant, the public functionary and the competent authority accordingly;

(b) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, he shall by report in writing, communicate his findings and recommendations to the competent authority and intimate the complainant and the public functionary about his having made the report.

(2) The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after, and in any case not later than ninety days from the receipt of such report, cause the same, together with an explanatory memorandum, to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.

MISCELLANEOUS

17. The salaries, allowances and pensions payable to, or in respect of, the Lokpal shall be expenditure charged on the Consolidated Fund of India.

Expenditure on Lokpal to be charged on the Consolidated Fund of India.

18. (1) Any information by the Lokpal, or by any officer, employee, agency or person referred to in section 7, in the course of, or for the purposes of, any verification or inquiry under this Act, and any evidence recorded or collected in connection therewith shall be treated as confidential and, notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokpal, or any such officer, employee, agency or person, to give evidence relating to such information or to produce the evidence so recorded or collected.

Secrecy of information.

1 of 1872.

(2) Nothing in sub-section (1) shall apply to the disclosure of the information or evidence referred to therein—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on any report under section 16; or

45 of 1860.

(b) for the purposes of any proceedings, for an offence of giving or fabricating false evidence, under the Indian Penal Code; or

(c) for such other purposes as may be prescribed.

19. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Intentional insult or interruption to, of bringing into disrepute, Lokpal.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

2 of 1974.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

20. (1) If, at any stage of a proceeding before the Lokpal, it appears to the Lokpal that any person appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, the Lokpal may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or

Power of Lokpal to try certain offences summarily.

fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973, and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees or to both.

2 of 1974.

(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to simple imprisonment for a term which may extend to one month or to fine which may extend to five hundred rupees or to both.

45 of 1860.

2 of 1974.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(4) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to appeals under this section and the High Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

2 of 1974.

Explanation.—For the purposes of this sub-section “High Court” means the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

2 of 1974.

Disclosure
of informa-
tion and
publication
of false
information
in respect
of com-
plaints
and
proceedings
under this
Act.

21. (1) If any person prints or publishes any information with respect to any complaint under this Act (including the identity of the person making the complaint, the public functionary against whom the complaint has been made and the particulars contained in the complaint) or with respect to any proceeding, act or thing taken or done or purported to have been taken or done under this Act in relation to such complaint—

(a) where the Lokpal dismisses such complaint under section 11, at any time before such dismissal; or

(b) where the Lokpal closes the case with respect to such complaint under clause (a) of sub-section (1) of section 16, at any time before such closure; or

(c) where the Lokpal forwards to the competent authority a report of his findings and recommendations with respect to such complaint under clause (b) of sub-section (1) of section 16, at any time before the expiry of three months from the date of receipt of the report by the competent authority,

such person shall be guilty of an offence under this sub-section.

(2) If any person prints or publishes any information alleging or suggesting that a complaint has been made under this Act against any public functionary and such information is false, such person shall be guilty of an offence under this sub-section.

2 of 1974.

(3) When any offence under sub-section (1) or sub-section (2) is committed, the Lokpal may take cognizance of the offence and, after giving the offender reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to six months or to fine which may extend to ten thousand rupees or to both.

(4) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(5) Any person convicted in a trial under this section may with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

2 of 1974.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

22. (1) Every person who makes any complaint which is held by the Lokpal to be false shall be punishable as provided in sub-section (2).

Action in case of false complaints.

2 of 1974.

(2) When any offence under sub-section (1) is committed, the Lokpal may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which shall not be less than one year but which may extend to three years and also to fine which may extend to fifty thousand rupees and may also award, out of the amount of fine, to the public functionary against whom such false complaint has been made, such amount of compensation as the Lokpal thinks fit.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(4) Any person convicted on a trial under this section may, with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

2 of 1974.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

Applica-
tion of
Act
2 of 1974.

23. Subject to the other provisions of this Act and subject to the modification that for purpose of transfer of any case under section 21 or section 22, the provisions of section 406 of the Code of Criminal Procedure, 1973, shall alone apply, the provisions of the said Code shall apply to proceedings before a Lokpal under sections 20, 21 and 22 and for the purposes of the said provisions of that Code and the said proceedings the Lokpal shall be deemed to be a Court of Session and shall have all the powers of a Court of Session.

Bar of
prosecu-
tion on
allega-
tions not
proved or
not sub-
stantiated.

24. Notwithstanding anything contained in any other law for the time being in force, where on an inquiry in respect of a complaint against a public functionary the Lokpal or the competent authority has held that any allegations made in the complaint have not been proved or substantiated, no prosecution shall lie on any complaint, report, information or otherwise and no court shall take cognizance of any offence on the basis of the same or substantially the same allegations as in the complaint.

Confer-
ment of
additional
functions
on Lokpal.

25. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegation (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary and, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as he would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 22) shall apply accordingly.

Disposal
of deposit.

26. The sum deposited by a complainant under section 10 shall,—

(a) in a case where the complaint is dismissed under clause (c) of sub-section (1) of section 11, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing, so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant.

Compensa-
tion or re-
ward or
both pay-
able in
certain
cases to
complain-
ant.

27. If the Lokpal is satisfied—

(a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined to the complainant.

Protec-
tion.

28. (1) No suit, prosecution or other legal proceedings, shall lie against the Lokpal, or against any officer, employee, agency or person referred to in section 7, in respect of anything which is in good faith done, or intended to be done, under this Act.

(2) Save as otherwise provided in this Act, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question, in any court.

29. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on him by or under this Act [except the powers under the proviso to sub-section (3) of section 10, the power to dismiss a complaint under sub-section (1) of section 11, the powers to close cases and make reports under section 16 and the powers under sections 20, 21 and 22] may also be exercised or discharged by such of the officers, employees or agencies referred to in sub-section (1) or sub-section (2) of section 7, as may be specified in the order.

Power to
delegate.

30. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the form in which complaints may be made under section 10 and the fees, if any, which may be charged in respect thereof;

(b) the manner in which and the authorities or agencies with whom deposits shall be made under sub-section (3) of section 10 and the form in which certificates shall be furnished in respect of such deposits under sub-section (2) of section 10;

(c) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 14;

(d) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31 For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring of any jurisdiction on the Lokpal to make any inquiry into any allegation against or any act or conduct of,—

Removal
of doubts.

(a) the President, the Vice-President, the Prime Minister or the Speaker of the Lok Sabha;

(b) the Chief Justice or any other Judge of the Supreme Court of India;

(c) the Comptroller and Auditor-General of India, the Chief Election Commissioner of India or the Chairman or any other Member of the Union Public Service Commission.

Savings.

32. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

60 of 1952.

Conse-
quential
amend-
ment of
Act
60 of 1952.

33. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 8 of the Lokpal Act, 1985, the appropriate Government may" shall be substituted.

THE SCHEDULE

[See section 3(2)]

I, _____, having been appointed Lokpal, do
swear in the name of God

_____, that I will bear true faith and allegiance to
solemnly affirm
the Constitution of India as by law established that I will duly and faith-
fully and to the best of my ability, knowledge and judgment perform the
duties of my office without fear or favour, affection or ill-will.

STATEMENT OF OBJECTS AND REASONS

In its interim report on the "Problem of Redress of Citizens' Grievances" submitted in 1966, the Administrative Reforms Commission recommended, *inter alia*, the setting up of institution of Lokpal.

2. To give effect to this recommendation of the Administrative Reforms Commission, a Bill called the "Lokpal and the Lokayuktas Bill, 1963" was introduced in the Fourth Lok Sabha in 1968. The Bill was considered by a Joint Committee of the two Houses of Parliament and the Bill, as reported by the Joint Committee, was passed by the Lok Sabha in 1969. While this Bill was pending in Rajya Sabha, the Fourth Lok Sabha was dissolved; and consequently, the Bill lapsed. In 1971, the Bill as passed by the previous Lok Sabha, was re-introduced in the Lok Sabha as the "Lokpal and Lokayuktas Bill, 1971". This Bill also lapsed on the dissolution of the Fifth Lok Sabha.

3. A fresh Bill called the "Lokpal Bill, 1977" was introduced in the Lok Sabha in 1977. This Bill was referred to a Joint Committee of both the Houses of Parliament which submitted its report in July, 1978. When the Bill, as reported by the Joint Committee, was under consideration of the Lok Sabha, the Lok Sabha was prorogued and was subsequently dissolved. Consequently that Bill also lapsed.

4. The scheme of the Lokpal under the 1977 Bill was materially different from the scheme under the 1971 Bill. The Lokpal Bill, 1977 covered only allegations of misconduct against Members of the Council of Ministers of the Union Government including the Prime Minister, Members of Parliament and Chief Ministers of States. Grievances, as distinct from allegations of misconduct, were excluded from his jurisdiction. It was also provided that the Lokpal would have under his direct administrative control an independent machinery to assist him in the discharge of his functions.

5. The present Bill seeks to set up the office of Lokpal as a high office with a fixed tenure. With a view to ensuring that the Lokpal is able to act independently and discharge his functions without fear or favour, the Bill provides that the Lokpal shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or by any other Judge of the Supreme Court nominated by the Chief Justice of India for this purpose. Under the scheme of the Bill, the Lokpal will inquire into complaints alleging that a public functionary as defined in the Bill has committed an offence punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947 and the expression "public functionary" cover Ministers, Ministers of State, Deputy Ministers and Parliamentary Secretaries of the Union. It seeks to carry out in this respect the object and purpose of the recommendations of the Administrative Reforms Commission for

enabling the citizen to have recourse to a convenient and effective forum for determination of complaints and thereby save him from pursuing his remedy through the process of courts, which may prove expensive or dilatory and may not facilitate in speedy determination. The Bill also seeks to make special provisions for discouraging frivolous, vexatious and false complaints. The Notes on clauses explain the provisions contained in the Bill.

6. The Bill seeks to achieve the above objects.

NEW DELHI;

A. K. SEN.

The 25th August, 1985.

Notes on clauses

Clause 2.—

Sub-clause (a)—The definition of “competent authority” is relevant for the purposes of clauses 11(1), 12(1) and clause 16(1) and (2).

Sub-clause (b)—This sub-clause makes it clear that a complaint under the proposed legislation can be made in respect of offences under Chapter IX of the Indian Penal Code, or under the Prevention of Corruption Act, 1947.

Sub-clauses (c) and (d)—These sub-clauses are self-explanatory.

Sub-clause (e)—This sub-clause defines the expression “public functionary”.

Clause 3.—This clause provides for the appointment of Lokpal. The Lokpal will be appointed after consultation with the Chief Justice of India. The person to be appointed as Lokpal will be a serving or a retired Judge of the Supreme Court of India or a person qualified to be a Judge of that Court.

Clause 4.—This clause is self-explanatory.

Clause 5.—This clause provides for the term of office and other conditions of service of the Lokpal. His conditions of service, salary, allowances and pension will be the same as those of the Chief Justice of India. The salary of the Lokpal will be in addition to any pension which he might be entitled to in respect of any previous service under the Government of India or under the Government of a State, and no deduction will also be made in regard to any retirement gratuity or commuted value of pension in respect of his previous service. After a person is appointed as Lokpal, his conditions of service, allowances and pension payable to him shall not be varied to his disadvantage.

Clause 6.—This clause deals with the removal of Lokpal.

Clause 7.—This clause deals with the staff of the Lokpal and the powers of the Lokpal to utilise the services, *inter alia*, of any investigating agencies of Government and of any other agencies.

Clause 8.—This clause deals with the jurisdiction of the Lokpal. Sub-clause (1) provides that the Lokpal may inquire into any matter involved in, or arising from, or connected with any allegation made in a complaint. Sub-clause (2) provides that the Lokpal may conduct an inquiry into any act or conduct of any person other than the public functionary concerned if he considered it necessary to do so for the purposes of his inquiry into any allegation. Sub-clause (3) provides that an inquiry under the Commissions of Inquiry Act, 1952 cannot be made in

respect of a matter in respect of which, a complaint has been made to the Lokpal except on the recommendation or with the concurrence of the Lokpal.

Clause 9.—It provides that Lokpal shall not inquire into any matter in respect of any person if he has any bias in respect of such person or matter, or into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on his recommendation or with his prior concurrence. It also provides that Lokpal shall not inquire into any complaint made after a period of five years from the date of the commission of the offence mentioned in the complaint.

Clause 10.—This clause provides that any person other than a public servant as defined therein can file a complaint which shall be in the prescribed form and shall be accompanied by an affidavit. This clause also provides for a deposit of Rs. 1000 by the complainant.

Clause 11.—This clause provides for preliminary scrutiny of complaints by the Lokpal.

Clause 12.—This clause provides for the procedure for making inquiries into the complaints by the Lokpal.

Clause 13.—This clause provides for deferment or for suspension for a specified period or till the completion of inquiry by the Lokpal of any investigation or inquiry by any police officer under the Code of Criminal Procedure, 1973, in respect of matters connected with a complaint being inquired into by the Lokpal by an order and for the reasons to be recorded. However, the Lokpal cannot give such a direction in respect of any investigation to be made in pursuance of an order of any Court. Sub-clause (2) of this clause also provides that for the purposes of Chapter XXXVI of the Code of Criminal Procedure, 1973, the period of deferment or suspension of any investigation into an offence shall be excluded from the period of limitation for taking cognizance of the offence.

Clause 14.—Sub-clause (1) of this clause deals with the powers of the Lokpal to require any public servant to furnish any information or produce any document. Sub-clause (2) provides that the proceedings before the Lokpal shall be deemed to be judicial proceedings within the meaning of section 193 of the Code of Criminal Procedure, 1973.

Clause 15.—This clause seeks to confer powers of search and seizure on the Lokpal.

Clause 16.—This clause relates to reports of the Lokpal and action thereon. Sub-clause (1) provides that when, after inquiry no allegation made in the complaint is substantiated, the Lokpal shall close the case and intimate the complainant, the public functionary and the competent authority accordingly. When all or any of the allegations made in the complaint are substantiated, the Lokpal will make a report communicating his findings and recommendations to the competent authority and will also intimate the complainant as well as the public functionary about his having made the report. Sub-clause (2) provides that the competent authority will inform the Lokpal of the action taken or proposed to be taken on the report within a period of three months. Sub-clause

(3) provides for the presentation by the Lokpal of annual reports on the administration of the Act to the President and for the laying of such reports before the Houses of Parliament.

Clause 17.—This clause provides that the expenditure on Lokpal shall be charged on the Consolidated Fund of India.

Clause 18. This clause provides for secrecy of information and evidence collected during any inquiry by Lokpal.

Clause 19.—This clause provides for punishment for intentional insult or interruption to or bringing into disrepute the Lokpal.

Clause 20.—This clause seeks to confer powers on the Lokpal to try summarily and punish persons giving false evidence, etc., in any proceedings before the Lokpal or committing offences under sections 175, 178, 179 or 180 of the Indian Penal Code in the view or presence of the Lokpal. The clause also provides that a person convicted thereunder may prefer an appeal to the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

Clause 21.—Disclosure of information in respect of complaints against public functionary or proceedings relating thereto causes irreparable damage to the public functionary in those cases where the public functionary has been absolved of the charges against him. This clause accordingly makes printing or publication of any such information in relation to any complaint before the inquiry under the Act has reached a definitive stage an offence triable summarily by the Lokpal. The clause also seeks to make the printing or publishing of any false information alleging or suggesting that a complaint has been made against a public functionary an offence triable summarily by the Lokpal. The clause also provides that an appeal against any conviction for any offence thereunder may be made to the Supreme Court of India with the leave of that Court.

Clause 22.—This clause provides for the punishment which may be awarded by the Lokpal to a person making a complaint which is found by the Lokpal to be false. The clause also provides that any person convicted thereunder may, with the leave of the Supreme Court, prefer an appeal to that Court.

Clause 23.—This clause provides for the modified application of the provisions of the Code of Criminal Procedure for the trial of offences under sections 20, 21 and 22.

Clause 24.—This clause provides for bar of prosecution on allegations not proved or not substantiated before the Lokpal.

Clause 25.—This clause relates to conferment of certain additional functions on the Lokpal and is self-explanatory.

Clause 26.—This clause provides for the disposal of deposits made by the complainants.

Clause 27.—This clause provides for compensation or reward or both payable to complainant in the event of all or any of the allegations made in a complaint being substantiated.

Clause 28.—This clause provides for protections from legal proceedings, etc.

Clause 29.—This clause provides for delegation of powers by the Lokpal to his staff, etc.

Clause 30.—This clause provides for the power of the President to make rules.

Clause 31.—This clause seeks to make it clear that the Lokpal shall not have any jurisdiction to conduct any inquiry into any allegation against or any act or conduct of the President, the Vice-President, the Prime Minister or the Speaker of the Lok Sabha or the Chief Justice or any other Judge of the Supreme Court of India or the Comptroller and Auditor General of India or the Chief Election Commissioner of India or the Chairman or any other member of the Union Public Service Commission.

Clause 32.—This clause provides that the provisions of this Bill shall not affect the constitution or the continuance of any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the coming into force of the provisions of this Bill.

Clause 33.—This clause seeks to make a consequential amendment in the Commissions of Inquiry Act, 1952.

FINANCIAL MEMORANDUM

Clause 3(1) of the Bill provides for the appoint of the Lokpal: Clause 5(3) of the Bill envisages that the salary, allowances and pension payable to, and all other conditions of services of, the Lokpal shall be the same as those of the Chief Justice of India. It also provides that the salary payable to the Lokpal shall be in addition to any pension and pension equivalent of other pensionary benefits to which the Lokpal may be entitled to in respect of any previous service under the Government of India or under the Government of a State.

2. Sub-clause (1) of clause 7 provides that the Lokpal shall appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with Lokpal to assist him in the discharge of his functions. Sub-clause (2) of clause 7 empowers the Lokpal to secure for the purpose of dealing with any complaints or any classes of complaints, the services of any officer or employee or investigating agency of the Central Government or a State Government or the services of any other person or agency. Sub-clause (3) of clause 7 provides that the terms and conditions of service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) of that clause shall be such as the President may determine in consultation with the Lokpal.

3. Clause 17 of the Bill provides that the expenditure on Lokpal shall be charged on the Consolidated Fund of India.

4. Clause 27 of the Bill provides for payment of compensation or reward to a complainant as determined by the Lokpal, by the Central Government.

5. At this stage, it is not possible to give precise details of the expenditure to be incurred on the Lokpal. It is, however, expected that the Bill when enacted, will involve a non-recurring expenditure of Rs. 5 lakhs and a recurring expenditure of Rs. 25 lakhs a year. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure of a non-recurring nature of the order of Rs. 50 lakhs may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30 of the Bill empowers the Central Government to make rules for the purpose of carrying into effect the provisions of proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (2) of that clause and relate mainly to the form in which complaints may be made and the fees, if any, which may be charged in respect thereof; the manner in which and the authorities or agencies with whom deposits shall be made under sub-clause (3) of clause 10 and the form in which certificate shall be furnished in respect of such deposits under sub-clause (2) of clause 10; and the additional matters in respect of which powers of a civil court may be exercised by the Lokpal. These are matters of detail necessary for effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.